



PPACA

COMPLIANCE CHECKLIST



Risk
Management
Advisors, LLC



About Us

Risk Management Advisors is a national firm specializing in the design, implementation and management of captive insurance companies and self insured plans.

Our partners have over 50 years of experience and are backed by a national network of world class professionals.

Working with leading tax advisors and attorneys, Risk Management Advisors provides a comprehensive, integrated approach for our clients to manage their risk and protect the wealth they have created.

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PPACA Compliance Checklist

The following information provides employers with a guideline for ensuring their Health & Welfare Benefit Plans are in compliance with the Patient Protection and Affordable Care Act (PPACA).

Summary of Benefits Coverage Documents

Beginning September 23, 2012 (for the first open enrollment period beginning on or after this date), all group health plans must issue a uniform plain language summary of benefits and coverage (SBC) to participants and beneficiaries (including COBRA participants) that accurately describes the benefits and coverage provided under the plan. Compliant documents will generally be prepared by your carrier or administrator (TPA). However, it is ultimately the responsibility of the employer. Templates are available at www.healthcare.gov.

W-2 Reporting

Beginning January 31st 2013 PPACA requires that employers issuing 250 or more W-2s for the prior year report the value of the applicable employer sponsored coverage in Box 12 on each employee's annual form W-2.

Form 720 Quarterly Excise Tax Return

Due July 31st 2013, the fee is imposed on self funded and fully insured plans for each policy year ending on or after October 1st 2012. If your health plans are fully insured the fee is paid by the carrier. Employers with fully insured policies should anticipate an increase in premium to accommodate this tax. The fee is calculated by using the applicable annual per employee dollar amount multiplied by the average number of lives covered under the policy.

Budget for Reinsurance Fees 2014-2016

Health and Human Services (HHS) mandates a \$5.25 per covered life although the actual cost will not be determined until 2014. Carriers will pay on behalf of fully insured employers. TPAs will pay on behalf of self funded employers.





Waiting Period - 90 day*

The Department of Labor, Health and Human Services and the Treasury recently issued guidance that prohibits group health plans from imposing waiting periods that exceed 90 days.

Employers should assess their current group health plan waiting period provisions and ensure that for plan years beginning on or after January 1, 2014, the waiting period does not exceed 90 days and that coverage under the group health plan will begin no later than the 91st day.

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Compliance Checklist - Play or Pay

Employers are not required to provide coverage to their employees. However, if a large employer, defined as having 50 or more "full-time equivalent" employees, does not offer minimum coverage to at least 95 percent of its full-time employees, the employer faces a penalty under Internal Revenue Code Section 4980H(a). The penalty is equal to \$2,000 multiplied by the total number of full-time employees, minus the first 30. Penalties are not tax deductible.

In most situations, avoiding the 4980H(a) penalty is not difficult but does require analysis. There are four key measurements needed for determining compliance with the play or pay provisions of PPACA:

Health Plan Eligibility*

Determine the number of full-time eligible employees eligible for health plan coverage under PPACA rules. Employees who work 30+ hours per week are eligible for benefits under PPACA.

Additional information on effectively organizing Eligibility is available at the end of this pdf document (titled: "Organizing Health Plan Eligibility").

Confirm if plan is subject to 'Play or Pay'

Evaluate eligibility to determine if employer has at least 50+ full-time *equivalent* employees. It is important to note that full-time AND part-time employees are included in this calculation.

Hours worked by part-time employees (those working less than 30 hours per week) are included by, on a monthly basis, dividing their total number of monthly hours worked by 120. For example, a company with 40 full-time employees also has 20 part-time employees who each work 24hrs per week, or 96hrs per month. These part-time employees would count as 16 full-time employees:

$$20 \text{ employees} \times 96\text{hrs} = 1920, 1920 / 120 = 16$$

This employer would be considered to have 56 full-time equivalent employees.





*Planning Consideration

Many employers have commented that they will “put their employees on the exchanges and just pay the penalty because it is cheaper than offering coverage”.

While this may or may not be true an employer considering this position needs to evaluate if less “rich”, but still compliant coverage can be offered on a more budget friendly basis.

Generally, this approach is preferable to offering no coverage and paying a substantial non deductible penalty.

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Compliance Checklist – Play or Pay

Health Benefit Coverage

Determine if health benefit coverage offered meets both:

- i.) Minimum Essential Coverage (MEC) AND provides;
- ii.) Minimum Value (MV)

Employers need to assess their current benefit design so that its provisions can be compared to the minimum essential and minimum value coverage requirements. In many cases employer’s current plans may meet or far exceed these requirements*.

Minimum essential coverage (MEC) refers to health plans that meet PPACA benefit provision compliance specifications, such as:

- No lifetime maximum limitations
- No pre-existing condition limitations
- Offers coverage for dependents up to age 26
- Offers a PPACA-compliant benefit set, including preventive care covered at 100%

Minimum value (MV) refers to a health plan providing at least 60% benefit coverage to the average plan participant. To comply with these requirements, employers may need to do either or both of the following:

- i.) Adjust the current plan to meet MEC and MV guidelines
- ii.) Establish a new plan that meets MEC and MV guidelines

Offering a MEC health plan to eligible employees is important, since it determines if the employer has liability for the \$2,000 penalty applicable to all FTEs less 30, per year.

Offering a MV health plan to eligible employees is also important as it determines if the employer is liable for a \$3,000 penalty applicable to any FTE that receives a government subsidy and purchases coverage on the exchange.





Planning Consideration

PPACA regulations and compliance guidelines continue to evolve. It is probably that final regulations will continue to be issued after the effective date of the law. Employers should remain prepared to accommodate evolving rules under the PPACA going forward.

This material is intended for general information purposes only. It should not be construed as legal advice or legal opinions on any specific facts or circumstances.

For answers to your questions call;

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Compliance Checklist – Play or Pay

Affordability

Determine if health benefit required employee contribution to the plan meets PPACA's affordability guidelines.

Assuming a plan with minimum essential and minimum value coverage is offered, the employer must determine if its contributions to the health plan costs are in compliance with PPACA's affordability rules.

Affordability: The rules require that the employee does not pay more than 9.5% of their household income towards the cost of their employer's health plan.

Household Income: In 2011 the IRS issued safe harbor options for the challenging task of assessing the "household income" of an employee:

Form W-2 safe harbor; an employer can determine affordability by referring to an employee's wages. Wages for this purpose would be the amount required to be reported in box 1 of Form W-2.

Rate of Pay safe harbor; Benefits are affordable if monthly contributions for self-only coverage for the lowest cost plan are equal to or lower than 9.5% of employee's hourly rate of pay on the first day of the plan year, multiplied by 130.

Cost of Health Plan: The IRS recently issued guidance that the 'cost of an employer's health plan' is based on the cost of Employee Only coverage.

If an employer fails to provide affordable coverage and one or more employees apply for and receive a subsidy to purchase coverage from the exchange the employer is subject to a \$3,000 penalty for each employee that receive the subsidy.

Individuals enrolling in the exchange must have total household income of less than 400% of the Federal Poverty Level (FPL) in order to be eligible for a subsidy. In 2012, 400% of the federal poverty level is approximately \$96,000 for a family of four.





Planning Consideration*

For many employers the data contained in the health benefits census has been relatively straightforward; name, m/f, date of birth, date of hire and zip code.

PPACA rules require that employers look at more than just those factors in determining compliance. Therefore, individuals or teams responsible for managing a company's health benefit program should consider additional categories depending on their unique circumstances. A suggested list is providing in the body of this section.

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Organizing Health Plan Eligibility

Employers will want to develop a census of all employees they will be required to offer health benefits to beginning in 2014.* Start with your current census of eligible employees using current definitions. From there, assemble a comprehensive list of all employees.

Depending on the nature of your job descriptions this could include:

- i.) Any employee working 30 + hours per week; including those who are not currently health benefit eligible
- ii.) Part-time employees (anyone who receives a W-2 wage statement, excluding full time seasonal employees who work less than 120 hours per year), based on the number of monthly hours worked divided by 120
- iii.) Seasonal employees – Those employees who work on a seasonal basis.
- iv.) Temporary employees
- v.) Variable employees – An employee is a variable hour employee if based on the facts and circumstances at the employee's start date, it cannot be determined that the employee is reasonably expected to work on average at least 30 hours per week.
- vi.) Commissioned employees – Employees who are paid on a commission basis, in whole or in part.

If not already in place, consider a census coding system to easily identify different groups of employees. The goal will be to filter this list down to the final list of employees eligible for benefits under PPACA.





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Organizing Eligibility cont...

The census should include the following employee data categories:

1. Employee name
2. Date of hire
3. Date of birth
4. Dependents under age 26? Yes / No
5. Wages
 - a. Type of wages paid (salary, hourly, bonus, commissions, etc.)
 - b. Amount of wages per employee by hour, weekly, bi-weekly, semi-monthly or monthly.
6. Employee classification from previous page
7. Identify collectively bargained vs. non-collectively bargained employees
8. Employer share of contribution for:
 - a. Single coverage only
 - b. Dependent coverage

On-going Eligibility Reporting Requirements

Beginning January 1st 2014, PPACA requires that large employers track each employee's status as a full-time employee (30 + hours per week), or at least 130 hours per month, or part-time. They will be required to report each employee's full-time status to the IRS and keep as part of their tax records the status of each employee.

- Hours worked
- Hours for which an employee is paid but does not work (vacation, holidays, paid sick days, jury duty, military duty or all paid periods of leave of absence
- Periods of unpaid leave under FMLA.

Hours of service must be tracked on an actual hours basis for hourly employees. The rules provide optional days-worked and weeks-worked tracking categories. These are designed to facilitate tracking wages of salaried employees.

Employers may also use weekly, bi-weekly or semi-monthly payroll periods rather than months as the basis for their elected measurement (aka "look back") period; again, to facilitate easier compliance with the PPACA's eligibility tracking rules.

